

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

TAMMY CHAPA,

Plaintiff,

v.

Case No. 20-13029
Honorable Denise Page Hood

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

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ORDER ACCEPTING REPORT AND RECOMMENDATION [#20]
AND REMANDING ACTION

This matter comes before the Court on Magistrate Judge Patricia T. Morris's Report and Recommendation. [ECF No. 20] Plaintiff filed this action on November 12, 2020, asking this Court to review the Commissioner's final decision to deny her application for Supplemental Security Income benefits. The parties filed cross motions for summary judgment. The Magistrate Judge recommends that the Court deny the Commissioner's Motion for Summary Judgment, grant Plaintiff's Motion for Summary Judgment to the extent she seeks remand but deny it to the extent it seeks reversal and a direct award of benefits, and remand this matter back to the Commissioner to properly consider Plaintiff's educational level and RFC under *Earley v. Comm'r of Soc. Sec.*, 893 F.3d 929 (6th Cir. 2018). Neither party filed an objection

to the Report and Recommendation.

Judicial review of the Commissioner's decision is limited in scope to determining whether the Commissioner employed the proper legal criteria in reaching his conclusion. *Garner v. Heckler*, 745 F.2d 383 (6th Cir. 1984). The credibility findings of an administrative law judge ("ALJ") must not be discarded lightly and should be accorded great deference. *Hardaway v. Secretary of Health and Human Services*, 823 F.2d 922, 928 (6th Cir. 1987). A district court's review of an ALJ's decision is not a *de novo* review. The district court may not resolve conflicts in the evidence nor decide questions of credibility. *Garner*, 745 F.2d at 397. The decision of the Commissioner must be upheld if it is supported by substantial evidence, even if the record might support a contrary decision or if the district court arrives at a different conclusion. *Smith v. Secretary of HHS*, 893 F.2d 106, 108 (6th Cir. 1984); *Mullen v. Bowen*, 800 F.2d 535, 545 (6th Cir. 1986).

The Court has had an opportunity to review this matter and finds that the Magistrate Judge reached the correct conclusions for the proper reasons. Finding no error in the Magistrate Judge's Report and Recommendation, the Court adopts the Report and Recommendation in its entirety. Furthermore, as neither party has raised an objection to the Report and Recommendation, the Court finds that the parties have waived any further objections to the Report and Recommendation. *Smith v. Detroit*

Fed'n of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987) (a party's failure to file any objections waives his or her right to further appeal); *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

For the reasons stated above,

IT IS ORDERED that the Report and Recommendation [ECF No. 20, filed October 13, 2021] is **ADOPTED** as this Court's findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment [ECF No. 12, filed June 21, 2021] is **GRANTED IN PART** and **DENIED IN PART**.

IT IS FURTHER ORDERED that the Commissioner's Motion for Summary Judgment [ECF No. 13, filed July 20, 2021] is **DENIED**.

IT IS FURTHER ORDERED that this matter is **REMANDED** back to the Commissioner under 42 U.S.C. § 405, sentence four, which allows a district court to remand in conjunction with a judgment affirming, modifying or reversing the Commissioner's decision. *Melkonyan v. Sullivan*, 501 U.S. 89, 99 (1991); *Sullivan v. Finkelstein*, 496 U.S. 617, 626 (1990). The Commissioner is to properly consider Plaintiff's educational level and RFC under *Earley v. Comm'r of Soc. Sec.*, 893 F.3d 929 (6th Cir. 2018), consistent with the analysis set forth in the Report and

Recommendation.

IT IS ORDERED.

DATED: March 31, 2022

s/Denise Page Hood

DENISE PAGE HOOD

United States District Judge